

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,
v.
RAMON DIAZ ORTIZ,
Defendant.

CRIMINAL NO. 99-306 (PG)

**UNITED STATES' MOTION IN OPPOSITION TO DEFENDANT'S MOTION TO
REDUCE SENTENCE**

TO THIS HONORABLE COURT:

COMES NOW the United States of America, by and through the undersigned attorneys,
and very respectfully states and prays as follows:

1. On August 9, 2005, defendant filed a Motion for Consideration of a Reduction of Sentence (docket # 266).
2. On February 17, 2006, this Honorable Court issued an Order directing the Government to respond to said motion within twenty (20) days (docket # 268).
3. Upon review of defendant's motion it is evident that the defendant is not entitled to any reduction in his sentence, since he seeks a reduction based on the application of U.S.S.G. § 2D1.1(a)(3), which states: that *if* "defendant receives an adjustment under §3B1.2 (Mitigating Role)" then the defendant is entitled to certain further reductions to his base offense level.
4. Defendant never received an adjustment for mitigating role, however, and is confusing a reduction he received for acceptance of responsibility with a reduction for mitigating role. (See Docket # 266, Def. Mot. para. 2).

5. The defendant is not entitled to a mitigating role reduction since he was found to be a supervisor in the underlying offense, and he agreed in his plea agreement that his role in the underlying offense was in fact that of a supervisor. Defendant entered into a plea agreement stipulating that he was a supervisor on February 26, 2001. (See Docket # 266, Def. Mot. Para. 1, 2. See also, Appendix with Plea Agreement: paragraph 8.b. Base offense level shall be increased by three (3) levels based on the defendant's role in the offense as a manager or supervisor pursuant to U.S.S.G. §3B1.1(b)).
6. Therefore, since defendant's role was that of a *supervisor* or *manager*, and not of a minor participant, the remedy he seeks must be denied, and his motion for a reduction in his sentence should not be granted.

CONCLUSION

WHEREFORE, for all of the foregoing reasons, the United States respectfully requests that this Court DENY defendant's motion and not reduce defendant's sentence.

In San Juan, Puerto Rico, this 4th day of March , 2006.

H.S. GARCIA
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel for defendant

By: s/ *Judith Vargas*
Judith Vargas, USDC No. 219914